



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 25, 1995

Ms. Sandra D. Carpenter  
Walsh, Anderson, Underwood, Schulze & Aldridge, P.C.  
Attorneys at Law  
P.O. Box 2156  
Austin, Texas 78768

OR95-206

Dear Ms. Carpenter:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31255.

The Granbury Independent School District (the "school district") received a request for "all working papers and information utilized during board workshop November 28, 29, 30, in development of the 'T-Sort.'" You assert that the school district may withhold the requested information based on sections 552.106 and 552.111 of the Government Code.

We observe that the school district's request for records form contains a blank for the date of the request. That blank contains the date of December 1, 1994. At the top of the request, the requestor wrote "re-request Jan 3, 1995 for all working papers from budget prioritization workshop Nov 28-30, 1994." The requestor informs us that she submitted the written request for the first time on December 1, 1994, and made the second request for the information on January 3, 1995, since she received no response to her first request. This office received your letter requesting an open records decision on January 12, 1995. The school district has made no comment to this office regarding the initial request.

Section 552.301(a) of the Government Code provides that:

A governmental body that receives a written request for information that it considers to be within one of the [act's] exceptions . . . must ask for a decision from the attorney general about whether the information is within that exception if there has

not been a previous determination about whether the information falls within one of the exceptions. *The governmental body must ask for the attorney general's decision within a reasonable time but not later than the 10th calendar day after the date of receiving the written request.* [Emphasis added].

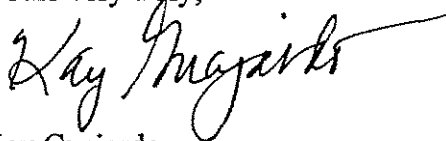
Since the school district received the request on December 1, 1994, and requested a decision from this office on January 12, 1995, the school district failed to seek our decision within the ten-day period mandated by section 552.301(a). Because the school district did not request an attorney general decision within the deadline provided by section 552.301(a), the requested information is presumed to be public information. Gov't Code § 552.302; *see Hancock v. State Bd. of Ins.*, 797 S.W.2d 379 (Tex. App.--Austin 1990, no writ).

In order to overcome the presumption that the requested information is public information, a governmental body must provide compelling reasons why the information should not be disclosed. *Hancock*, 797 S.W.2d at 381. The school district has not raised any specific compelling reasons to overcome the presumption that the information is public. The school district asserts that sections 552.106 and 552.111 of the Government Code are applicable. When an exception to disclosure that is designed to protect the interests of a third party is applicable, the presumption of openness may be overcome. *See Open Records Decision No. 552 (1990).*

Sections 552.106 and 552.111 are designed to protect the interests of a governmental body rather than those of a third party. *See Open Records Decision Nos. 615 (1993), 429 (1985).* Consequently, we do not believe that the fact alone that information may be excepted from required public disclosure pursuant to section 552.106 or section 552.111 is a compelling reason sufficient to overcome the presumption of openness that arose when the school district failed to request an attorney general division within ten days of receiving the initial open records request. *See Open Records Decision No. 515 (1988).* Therefore, we conclude that the school district must release the information.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Guajardo  
Assistant Attorney General  
Open Government Section

KHG/rho

Ref.: ID# 31255

Enclosures: Submitted documents

cc: Ms. Elizabeth G. Barker  
P.O. Box 2234  
Granbury, Texas 76048  
(w/o enclosures)